

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF MISSISSIPPI

3 UNITED STATES OF AMERICA,)
4)
5 Plaintiff,)
6)
7 vs.)
8)
9 DERRICK JONES,)
10)
11 Defendant.)

CASE NO. 4:15CR73

12 WAIVER OF INDICTMENT / FILING OF INFORMATION
13 AND PLEA TO COUNT 1 OF THE INFORMATION
14 AND
15 CHANGE OF PLEA AS TO COUNT 1 OF THE
16 FOURTH SUPERSEDING INDICTMENT
17 BEFORE DISTRICT JUDGE DEBRA M. BROWN
18 THURSDAY, JULY 20, 2017; 2:00 P.M.
19 GREENVILLE, MISSISSIPPI

20 FOR THE GOVERNMENT:

21 United States Attorney's Office
22 CLYDE MCGEE, ESQ.
23 900 Jefferson Avenue
24 Oxford, Mississippi 38655-3608

25 FOR THE DEFENDANT:

Attorney At Law
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Proceedings recorded by mechanical stenography, transcript
produced by computer.

26 RITA DAVIS YOUNG, FCRR, RPR, CSR #1626
27 FEDERAL OFFICIAL COURT REPORTER
28 911 JACKSON AVENUE EAST, SUITE 369
29 OXFORD, MISSISSIPPI 38655

1 (CALL TO ORDER OF THE COURT)

2 THE COURT: All right. You may call the case.

3 THE COURTROOM DEPUTY: The Court calls Case No.

4 4:15CR73-10, United States of America v. Derrick Jones.

5 THE COURT: We have two things set today with respect
6 to this defendant, a waiver of indictment hearing and a plea
7 hearing as to Count 1 of the fourth superseding indictment. If
8 counsel is not opposed, I'm going to combine these two things,
9 you know, so I won't have to ask twice questions about
10 competency and that type of thing. Y'all have any problem with
11 that?

12 MR. DAVIS: No objection.

13 MR. MCGEE: No objection, Your Honor.

14 THE COURT: All right. Would you introduce
15 yourselves, please? Who's here for the Government?

16 MR. MCGEE: Clyde McGee, Your Honor.

17 THE COURT: And for the defendant?

18 MR. DAVIS: Chip Davis, Your Honor.

19 THE COURT: And who do we have from probation?

20 MR. MIDDLETON: Kelly Middleton, Your Honor.

21 THE COURT: All right. You all ready to proceed? Go
22 ahead and come forward.

23 (Parties complying)

24 THE COURT: All right. Please administer the oath to
25 the defendant.

1 (OATH ADMINISTERED BY THE COURTROOM DEPUTY)

2 THE COURT: Mr. Jones, do you understand that you're
3 now under oath; and, if you answer any question I ask you
4 falsely or untruthfully, that false or untruthful answer may
5 later be used against you in the prosecution for perjury or
6 making a false statement?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Do you understand that you have the right
9 to remain silent and not answer any of my questions?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Now, the Court has been advised that you
12 now want to plead guilty to the charges in Count 1 of an
13 information. Is that correct?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And I've also been informed that you wish
16 to plead guilty to Count 1 of the fourth superseding indictment
17 in this case. Is that correct?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: I understand that you wish to plead
20 guilty to the information and to Count 1 of the fourth
21 superseding indictment pursuant to a plea agreement with the
22 Government. Is that correct?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Before we proceed, then, there are many
25 questions I must ask you to make sure that you're fully

1 informed of your rights and that you understand your rights in
2 this proceeding. If, at any point, you don't understand a
3 question I ask you, just let me know; and I'll clarify it for
4 you. Also, you may stop me at absolutely anytime if you would
5 like to speak with your attorney. You understand?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: First, what is your full name?

8 THE DEFENDANT: Derrick Martez Jones.

9 THE COURT: Could you spell your middle name, please?

10 THE DEFENDANT: M-a-r-t-e-z.

11 THE COURT: And what's your current age, sir?

12 THE DEFENDANT: My current address?

13 THE COURT: Uh-huh. Your current age. How old are
14 you?

15 THE DEFENDANT: Age? Forty.

16 THE COURT: How many years of school have you
17 completed?

18 THE DEFENDANT: Tenth. I got my GED.

19 THE COURT: You do have your GED? When did you get
20 your GED?

21 THE DEFENDANT: I got my GED 2000 -- 2001.

22 THE COURT: Now, are you presently under the
23 influence of any medicine, drugs, or alcohol?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: Have you ever been treated or

1 hospitalized for an addiction to drugs?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: Have you ever been treated for any mental
4 illness?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: Do you suffer from any mental condition
7 or disability that would prevent you from fully understanding
8 the nature of the charges against you in the information and as
9 to Count 1 of the fourth superseding indictment or the
10 consequences of the guilty plea?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Mr. Davis, did you speak with the
13 defendant before today about this proceeding and what will
14 happen?

15 MR. DAVIS: I did, Your Honor.

16 THE COURT: Do you have any questions or concerns
17 about the defendant's competency to enter a plea?

18 MR. DAVIS: I do not, Your Honor.

19 THE COURT: Mr. McGee, does the Government have any
20 concerns in that regard?

21 MR. MCGEE: None whatsoever, Your Honor.

22 THE COURT: The Court then finds that the defendant
23 is competent to waive indictment and to enter a plea to the
24 information, as well as entering a plea to the charges in the
25 fourth superseding indictment.

1 And, Mr. Jones, the next set of questions I'm going to ask
2 you concern the information only. And some of them are just
3 some matters that I have to advise you of. Now, first, I want
4 to let you know that you have a constitutional right to be
5 charged by an indictment -- in an indictment by the grand jury,
6 but you can waive that right and consent to being charged by an
7 information of the United States Attorney instead of an
8 indictment.

9 The felony charges against you have been brought by the
10 United States Attorney in the form of an information. Now,
11 unless you waive indictment, you may not be charged with a
12 felony unless a grand jury finds, by the return of an
13 indictment, that there is probable cause to believe that a
14 crime has been committed and that you committed it.

15 If you do not waive indictment, the Government may present
16 the case to a grand jury and ask it to indict you. Now, a
17 grand jury is composed of at least 16, and not more than 23,
18 persons. At least 12 grand jurors must find that there is
19 probable cause to believe that you committed the crime with
20 which you have been charged in the information before you may
21 be indicted.

22 Now, the grand jury may or may not indict you. If you
23 waive indictment by the grand jury, however, the case will
24 proceed against you on the United States Attorney's information
25 just as though you had been indicted.

1 Now, based on all that I just stated, my first question
2 is, do you understand that, with respect to just the
3 information, the charges in the information, that you have not
4 been indicted on those charges?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: So it's fair to say that you understand
7 that the only thing that has happened is that the United States
8 Attorney has signed an information charging you with a crime
9 stated in that information?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Do you understand your right to
12 indictment by a grand jury?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Do you understand that you have a right
15 to have a grand jury consider the evidence against you?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Have you discussed waiving your right to
18 indictment by the grand jury with your attorney?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Have any threats or promises been made to
21 you to induce you to waive indictment?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Based on what I've discussed thus far
24 with respect to the information in this proceeding, do you want
25 to waive your right to indictment by a grand jury as to the

1 charges in the information.

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Mr. Davis, is there any reason you know
4 of why the defendant should not waive indictment?

5 MR. DAVIS: No, Your Honor. And, if I may, for one
6 moment, as far as this information, the count that he's
7 pleading guilty to here, Mr. McGee and I have spoken with the
8 District Attorney's Office in Quitman County, Mississippi. In
9 fact, we spoke with Ms. Brenda Mitchell, the district attorney
10 in Quitman County.

11 And, while the Government cannot bind, and will not
12 promise or offer to bind, any decision that might be made by
13 the district attorney, in Mr. McGee's presence, I did ask
14 Ms. Mitchell whether or not if Mr. Jones were to waive
15 indictment and plead guilty in this court whether she would
16 agree to not prosecute -- or not proceed against him in Quitman
17 County on the same facts that are contained in this
18 information.

19 She said that she would have to consider that and think
20 about it. And I had left the office at the time, but I believe
21 Mr. McGee can confirm this; I believe she called the United
22 States Attorney's Office back and indicated that she would not
23 proceed if indictment were waived and a guilty plea entered and
24 accepted in this particular case.

25 Again, Your Honor, I've spoken with Mr. Jones about this

1 extensively; and he understands that the United States cannot
2 bind the District Attorney's Office, but we do have -- I
3 suppose you could call it a colleague's, or gentlemen's,
4 agreement with the District Attorney's Office in Quitman County
5 that if he is -- if the Court sentences him on this particular
6 count, then he would not be indicted in Quitman County.

7 So, yes, Your Honor, I believe it's in his best interest,
8 given that, to enter this plea of guilty before Your Honor on
9 this information as opposed to await a grand jury indictment.

10 THE COURT: All right.

11 And is that your understanding as well, Mr. McGee?

12 MR. MCGEE: What Mr. Davis stated is accurate.

13 THE COURT: And do you understand that, Mr. Jones?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: All right. Then, who has the written
16 waiver?

17 MR. DAVIS: It's here, Your Honor.

18 THE COURT: If you would please provide it. Has it
19 been signed yet? Let me ask you that.

20 MR. DAVIS: No, Your Honor.

21 THE COURT: Okay. Great. Would you please have the
22 defendant sign it.

23 And , Mr. Jones, if you want to waive indictment, then you
24 will need to sign that written waiver as you're doing now.

25 THE DEFENDANT: Okay.

1 THE COURT: And then your attorney will sign as well.

2 MR. DAVIS: Your Honor, Mr. Jones has signed the
3 waiver; and I've signed it as well.

4 THE COURT: Would you please hand it to Ms. Thomas.
5 All right. I've reviewed the waiver, and I will sign it as
6 well. All right. I've reviewed the information -- I mean,
7 excuse me, the waiver; and I've also reviewed the signatures as
8 I viewed Mr. Jones sign it, and his counsel sign it. And the
9 Court does find that the waiver of indictment is knowingly and
10 voluntarily made by the defendant, and it is accepted by the
11 Court. So this waiver will be filed.

12 All right. Mr. Jones, this next part of this proceeding
13 will address the charges against you in Count 1 of the
14 information and Count 1 of the fourth superseding indictment.
15 Let me first ask, have you been given a copy of the charges
16 against you as set forth in the information?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: And have you been given a copy of the
19 charges against you as set forth in the fourth superseding
20 indictment?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Now, the information has one count and
23 that is Count 1. In that count, you're charged with using a
24 firearm in the course of a drug trafficking crime to murder a
25 person, namely Gary Patterson, in violation of Title 18, United

1 States Code, Section 924(c) and (j)(1) and 2.

2 Now, Count 1 of the fourth superseding indictment charges
3 you with conspiracy to distribute, and to possess with intent
4 to distribute, heroin in violation of Title 21, United States
5 Code, Section 841(a)(1) and (b)(1)(C) and Section 846.

6 Now, with respect to the information and the fourth
7 superseding indictment, would you like to have them read or is
8 reading waived, Mr. Davis?

9 MR. DAVIS: Reading will be waived, Your Honor.

10 THE COURT: Mr. Jones, are you fully aware of what
11 you're charged with in the information?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Are you fully aware of what you're
14 charged with in Count 1 of the fourth superseding indictment?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: And do you understand what you're charged
17 with in the information and in Count 1 of the fourth
18 superseding indictment?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Have you discussed the charges in the
21 information and Count 1 of the fourth superseding indictment
22 with your attorney?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. Do we have the information,
25 the original copy or whatever copy y'all would like to have

1 filed?

2 MR. DAVIS: It's here, Your Honor.

3 THE COURT: Would you please hand that to Ms. Thomas.
4 (Perusing document).

5 MR. MCGEE: Your Honor, just for record purposes and
6 just to be clear, in the information, it states that these acts
7 are in violation of Title 18, United States Code, Sections
8 924(c) and (j)(1) and 2. Two is actually separate. That's the
9 aiding and abetting language that is Title 18, United States
10 Code, Section 2. So I just wanted to make that clear on the
11 record that it is -- the information is 924(c) and (j)(1) and
12 then 18 --

13 THE COURT: And Section 2.

14 MR. MCGEE: Of 18 USC -- Title 18. Yes, Your Honor.

15 THE COURT: Okay. Do you wish to maybe even make
16 that notation on it before we file it?

17 MR. MCGEE: No.

18 THE COURT: It's clear to me from the record, but
19 I --

20 MR. MCGEE: Yes, ma'am. I think it's fine as
21 written. It's just, when I say it out loud, it sounds a little
22 confusing.

23 THE COURT: No. I do understand, because you think
24 it's a subsection of (j)(1) as opposed to a separate section.

25 MR. MCGEE: Right. It's actually not a subsection.

1 THE COURT: Right. And I -- I mean, that's what I'm
2 saying too.

3 MR. MCGEE: That's right.

4 THE COURT: It's a subsection of 924(c) but not a
5 subsection of (j)(1).

6 MR. MCGEE: It's actually a subsection of just Title
7 18, United States Code, Section 2.

8 THE COURT: Okay. Oh.

9 MR. MCGEE: It's just Section 2. It's not a
10 subsection.

11 THE COURT: Okay.

12 Is everybody clear about that, Mr. Davis?

13 MR. DAVIS: Yes, Your Honor.

14 THE COURT: Mr. Jones?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Okay.

17 MR. MCGEE: Thank you, Your Honor.

18 THE COURT: I guess I'm clear then too. I'm glad we
19 had that on the record, though. All right. The information
20 will be filed. Mr. Jones, before you could be found guilty of
21 the charges in the information and the charges in Count 1 of
22 the fourth superseding indictment, the Government would have to
23 prove certain elements against you beyond a reasonable doubt.

24 Mr. McGee, would you please advise the defendant of the
25 elements with respect to Count 1 of the information and then

1 Count 1 of the fourth superseding indictment?

2 MR. MCGEE: Yes, Your Honor. Count 1 of the
3 information, the Government would have to prove, beyond a
4 reasonable doubt, that, first, the defendant committed a drug
5 trafficking crime, that is, possession with the intent to
6 distribute cocaine.

7 Second, that the defendant knowingly used or carried a
8 firearm during, and in relation to, the above drug trafficking
9 crime. Third, that during, and in relation to, the above drug
10 trafficking crime, the defendant unlawfully killed Gary
11 Patterson with malice aforethought. Fourth, that during, and
12 in relation to, the above drug trafficking crime, the defendant
13 caused the death of Gary Patterson through the use of the
14 firearm.

15 As far as Count 1 of the fourth superseding indictment,
16 the Government would have to prove, beyond a reasonable doubt,
17 each of the following elements: First, that the defendant
18 directly or indirectly reached an agreement to distribute and
19 possess, with the intent to distribute, heroin.

20 Second, that the defendant knew of the unlawful purpose of
21 the agreement. And, third, that the defendant joined in the
22 agreement willfully, that is, with the intent to further its
23 unlawful purpose.

24 THE COURT: Mr. Jones, having heard the elements for
25 each count, that being Count 1 of the information and Count 1

1 of the fourth superseding indictment, do you have any questions
2 about the elements of proof or the nature of the charges, as to
3 either one?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: All right. The next thing, we're going
6 to move to the Court advising you of the maximum possible
7 penalties associated with Count 1 of the information, then
8 Count 1 of the fourth superseding indictment.

9 With respect to Count 1 of the information, the maximum
10 possible penalties are imprisonment for life, a fine of not
11 more than \$250,000 or both; supervised release after
12 imprisonment for not more than 5 years; and a special
13 assessment of \$100.

14 Now, with respect to Count 1 of the fourth superseding
15 indictment, the maximum possible enhanced penalties are
16 imprisonment for not more than 30 years, a fine of not more
17 than \$2 million or both, supervised release after imprisonment
18 for at least 6 years, and a special assessment of \$100.

19 I also want to point out to you, sir, that the fourth
20 superseding indictment contains a forfeiture provision which is
21 applicable to Count 1. To the extent the Government may pursue
22 forfeiture, that provision essentially says that, upon
23 conviction, you shall forfeit to the Government any property
24 obtained with illegal proceeds or involved in, or intended to
25 be used to commit, the offenses charged; and that, if any such

1 property cannot be located, then substitute property may be
2 forfeited with the Government having the right to seek a money
3 judgment against you in the amount of illegal proceeds.

4 Mr. McGee, do you know what the Government's intent is at
5 this stage with respect to that forfeiture provision applicable
6 to Count 1?

7 MR. MCGEE: Your Honor, the Government has no
8 intention of any further forfeiture proceedings against Mr.
9 Jones.

10 THE COURT: All right.

11 Mr. Jones, if you're sentenced to serve time in prison on
12 Count 1 of the information and/or Count 1 of the fourth
13 superseding indictment, do you understand that you may be
14 subject to supervised release for a number of years after your
15 release from prison?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you understand that if you violate one
18 or more of the conditions of supervised release you may be
19 returned to prison for all or part of that supervised release
20 term?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Now, do you understand all of these
23 penalties the Court has just discussed with you?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you have any questions about any of

1 them?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: All right. Next, I'm going to ask the
4 Government's attorney to state the facts the Government would
5 be prepared to prove against you if your case went to trial.
6 I'll ask you to please pay attention to what is said by the
7 Government's attorney because I will have some questions for
8 you afterwards.

9 THE DEFENDANT: Okay.

10 THE COURT: Mr. McGee, what is the Government's
11 evidence?

12 MR. MCGEE: Your Honor, the Government would show,
13 through the testimony of numerous witnesses, including
14 coconspirators and forensic experts, as well as physical
15 evidence, including video, audio, and photos, that the
16 defendant, Derrick Jones, being aided and abetted by persons
17 known and unknown to the U.S. Attorney, during and in relation
18 to a drug trafficking crime, namely, possession with the intent
19 to distribute cocaine, did unlawfully, knowingly, and
20 intentionally carry and use a firearm, and, in the course of
21 this crime, did cause the death of a person, to wit, Gary
22 Patterson, through the use of a firearm, which killing was
23 murder as defined in Title 18, United States Code, Section
24 1111.

25 And that the defendant, with malice aforethought, did

1 unlawfully kill Gary Patterson while shooting him with a
2 firearm willfully, deliberately, maliciously, and with
3 premeditation in violation of Title 18, United States Code,
4 Sections 924(c) and (j)(1).

5 The Government would also show that Derrick Jones did
6 knowingly and intentionally conspire with Steven Haynes,
7 Reginald Murray, Mark Connor, and others to distribute and
8 possess with the intent to distribute heroin, a Schedule I
9 controlled substance in violation of Title 21, United States
10 Code, Sections 841(b)(1)(C) and 846 in the Northern District of
11 Mississippi.

12 Specifically, in 2014, agents discovered that Derrick
13 Jones was distributing heroin in Coahoma County, Mississippi to
14 Tony Lewelling, Reginald Murray, and others. Tony Lewelling
15 began working with the Drug Enforcement Administration and the
16 Mississippi Bureau of Narcotics.

17 On January 28th, 2015; February 9th, 2015; and
18 February 19th, 2015; an undercover agent, Antonio Lewelling,
19 made controlled purchases of heroin from Derrick Jones. During
20 2015, Jones also conspired to distribute, and possess with the
21 intent to distribute, heroin with Reginald Murray, Mark Connor,
22 Steven Haynes, and others.

23 Chemists from the DEA laboratory would testify that the
24 substances sold and seized throughout the conspiracy contained
25 heroin. In 2015, Derrick Jones and Mark Connor were also

1 receiving cocaine from Gary Patterson, who lived in Texas.
2 Patterson would travel from Texas to Mississippi and supply
3 Jones and Connor with cocaine.

4 In March of 2015, Jones and Connor arranged for Patterson
5 to deliver multiple kilograms of cocaine to Mississippi. On
6 March 10th, 2015, Patterson arrived in Coahoma County,
7 Mississippi. When Patterson arrived, Derrick Jones arranged
8 for a cocaine transaction to occur on Booker Road in Quitman
9 County.

10 Patterson brought cocaine to Booker Road. Jones brought a
11 38 revolver to the meeting. Following the arrival at Booker
12 Road, Jones, using the revolver, willfully and deliberately
13 shot Gary Patterson with malice aforethought resulting in his
14 death.

15 Following the murder, Derrick Jones gained possession of a
16 portion of Patterson's cocaine and participated with others in
17 burning Patterson's vehicle in Sunflower County, Mississippi.
18 The Government would have proven Jones possessed the cocaine
19 with the intent to distribute it.

20 The Government would ask the Court to take judicial notice
21 that Sunflower, Quitman, Coahoma County, Mississippi are
22 within the Northern Judicial District of Mississippi.

23 THE COURT: The Court does note. Mr. Jones, now
24 having heard the Government's attorney state what evidence the
25 Government had to present against you on Count 1 of the

1 information and Count 1 of the fourth superseding indictment,
2 do you understand what the Government's attorney said?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Now, is everything that the Government's
5 attorney said about you and about your conduct true and
6 correct?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Do you, sir, wish to plead guilty to
9 Count 1 of the information and to Count 1 of the fourth
10 superseding indictment because you are in fact guilty of the
11 charges set forth in those counts?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: The Court then finds that there is a
14 factual basis for the defendant to plead guilty to the charges
15 in Count 1 of the information and to Count 1 of the fourth
16 superseding indictment.

17 Regarding the plea agreement between the defendant and the
18 Government, Mr. McGee, would you please state the substance
19 into the record?

20 MR. MCGEE: Yes, Your Honor. The parties entered
21 into a plea agreement wherein the defendant agrees to plead
22 guilty under oath to Count 1 of an information and Count 1 of
23 the fourth superseding indictment. As we previously discussed,
24 Count 1 of the fourth superseding indictment is the heroin
25 conspiracy wherein he conspired to possess, with the intent to

1 distribute, and to distribute, a mixture and substance
2 containing heroin.

3 And it lists the penalties Your Honor previously went
4 over, the enhanced penalties, of not more than 30 years'
5 imprisonment, \$2 million fine, supervised release for at least
6 6 years, and a \$100 special assessment.

7 Regarding Count 1 of the information, the defendant is
8 pleading to being aided and abetted by persons known and
9 unknown to the U.S. Attorney, during and in relation to a drug
10 trafficking crime. And that's possession with intent to
11 distribute cocaine.

12 He did unlawfully and knowingly and intentionally carry
13 and use a firearm and, in the course of this crime, did cause
14 the death of a person, to wit, Gary Patterson, through the use
15 of a firearm, which killing was murder in that the defendant,
16 with malice aforethought, did unlawfully kill Gary Patterson
17 while shooting him with a firearm, willfully, deliberately,
18 maliciously, and with premeditation. And those penalties are
19 not more than life imprisonment, not more than a \$250,000 fine;
20 not more than 5 years' supervised release; and a \$100 special
21 assessment .

22 Furthermore, the Government agrees not to charge the
23 defendant with any other offenses arising from, or related to,
24 the above charges and agrees to dismiss all other indictments
25 as to this defendant following the sentencing on Count 1 of the

1 information and Count 1 of the fourth superseding indictment.

2 This agreement does not bind any prosecuting authority of
3 any state or any other federal district, nor does it bind the
4 Attorney General of the United States with regards to any
5 matter, criminal or civil, involving federal tax laws; nor does
6 the agreement bind the United States or any of its departments
7 or agencies with regard to any civil or administrative actions
8 or remedies.

9 The defendant hereby expressly waives any and all rights
10 to appeal the conviction and/or the sentence imposed in this
11 case, the manner in which it was imposed, on any ground
12 whatsoever, including, but not limited to, grounds set forth in
13 18 U.S.C. 3742, except to claims relating to prosecutorial
14 misconduct or ineffective assistance of counsel relating to the
15 validity of the waiver of appeal or the validity of the guilty
16 plea itself.

17 The defendant also hereby expressly waives all rights to
18 contest or collaterally attack the conviction and/or sentence
19 and the manner in which it was imposed in any postconviction
20 proceeding, including, but not limited to, a motion brought
21 pursuant to 28 U.S.C. 2255, except to claims relating to
22 prosecutorial misconduct or ineffective assistance of counsel
23 relating to the validity of the waiver of appeal or the
24 validity of the guilty plea itself. This waiver is made in
25 exchange for the concessions made by the United States in this

1 plea agreement.

2 The defendant understands and agrees that the United
3 States does not waive its right to appeal. If the defendant
4 violates this agreement, all statements made pursuant hereto
5 will be admissible against the defendant, who hereby waives the
6 provisions of Rule 11(f) of the Federal Rules of Criminal
7 Procedure and 410 of the Federal Rules of Evidence. The
8 defendant could also, in that event, be prosecuted for all
9 federal offenses, including perjury or false statements
10 relating to the plea agreement.

11 Apart from being advised of the applicability of the U.S.
12 Sentencing Guidelines, and other than as set forth elsewhere in
13 the plea documents, particularly the plea supplement, no
14 promise or representation whatsoever has been made to the
15 defendant as to what punishment the Court might impose if it
16 accepts the pleas of guilty.

17 This agreement fully reflects all promises, agreements,
18 and understandings between the defendant and the U.S. Attorney.
19 The defendant's agreement is knowing, free, and voluntary and
20 not the product of force, threat, or coercion. The defendant
21 is pleading guilty because the defendant is in fact guilty.

22 THE COURT: Mr. Jones, did the Government's attorney
23 accurately state the substance of the plea agreement as you
24 understand it to be?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Do you understand the terms of the plea
2 agreement as stated in the plea documents?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Now, there is a provision of the plea
5 supplement that I want to ask you about in general. And, in
6 particular, it is a term that is stated in Paragraph 4 of the
7 plea supplement. And I want to ask, do you understand that if
8 the Court -- well, first, let me ask do you understand that the
9 Court may decide not to follow that part of the agreement that
10 you have made with the Government in Paragraph 4 of this plea
11 supplement?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Now, do you understand that if I decide
14 not to follow that part of your agreement in Paragraph 4 that I
15 will give you the opportunity to withdraw your guilty plea?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you understand that if I give you the
18 opportunity to withdraw your guilty plea and you choose not to
19 withdraw it, I may impose a sentence more severe without being
20 bound by that part of the agreement? Do you understand that?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Now, Mr. McGee mentioned a few things
23 that I just want to stress to you as well, one of them being
24 that -- to ask you, rather, do you fully understand that you
25 would waive all rights to appeal and collaterally attack your

1 conviction and sentence if you plead guilty to Count 1 of the
2 information and Count 1 of the fourth superseding indictment?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: And do you also understand that the
5 Government does not waive its right to appeal?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Now, if you have a copy of the plea
8 documents there with you, would you take a look at them and
9 confirm for the Court that the signature on those documents is
10 indeed your signature?

11 THE DEFENDANT: (Perusing document). Yes, ma'am.

12 THE COURT: On both documents?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Okay.

15 Mr. Davis, did you discuss the contents of the plea
16 documents with the defendant before he signed them?

17 MR. DAVIS: I did, Your Honor.

18 THE COURT: Did you review the facts of the case and
19 everything the Government has relative to the case with the
20 defendant?

21 MR. DAVIS: I did, Your Honor.

22 THE COURT: All right.

23 Mr. McGee, if you would give Ms. Thomas the original copy
24 of the plea documents.

25 MR. MCGEE: (Passing documents).

1 THE COURT: (Perusing documents). Okay. Let me deal
2 with the plea agreement first. The plea agreement will be
3 filed and the plea supplement will be filed under seal. Let me
4 ask you about this information, though, Mr. McGee. Is it
5 common that you-all leave the full social security number on
6 the cover sheet?

7 MR. MCGEE: Your Honor, I'm not certain. I believe
8 we do. And then I think we also may send you a redacted
9 version, but I'm not sure that we did.

10 THE COURT: Okay. We can check that out. But right
11 now, it has his full social security number on the cover sheet.

12 MR. MCGEE: Yes, ma'am.

13 THE COURT: If you find that you-all typically send a
14 redacted copy -- just for the record, Mr. Davis, you-all
15 understand that he could send that to the Court; and we would
16 file that as opposed to this one with his full social security
17 number.

18 MR. MCGEE: Yes, Your Honor.

19 THE COURT: Mr. Jones, beyond that that's stated in
20 the plea agreement, has anyone made any promises to you about
21 what sentence you will receive?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Do you understand that the offenses to
24 which you wish to plead guilty are felonies; and that, if your
25 guilty plea is accepted as to each count -- with respect to the

1 information and Count 1, of course, of the superseding
2 indictment, do you understand you will be adjudged guilty of
3 those felonies?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Do you understand that being adjudged
6 guilty of each of those felonies may deprive you of certain
7 civil rights, such as the right to vote, the right to hold
8 public office, the right to sit on a jury, and the right to
9 possess any kind of firearm whatsoever?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: As your attorney may have explained to
12 you, under the Sentencing Reform Act of 1984, the United States
13 Sentencing Commission has issued guidelines for judges to
14 follow in determining the sentence in a criminal case.

15 Now, these guidelines are only advisory, meaning the Court
16 is not bound to follow them if the Court chooses not to do so.
17 Now, please confirm for me, first, that you and your attorney
18 have discussed how these sentencing guidelines might apply to
19 your case?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Do you understand that the Court will not
22 be able to determine the guideline sentence for your case until
23 after the Presentence Report has been completed and you and the
24 Government and the Government's attorney and your counsel have
25 had the opportunity to review that Presentence Report and

1 determine whether or not you want to challenge any of the
2 reported facts or the application of the guidelines as
3 recommended by the probation officer?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Do you understand that the sentence
6 imposed may be different from any estimate your attorney may
7 have provided you?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Do you also understand that, after your
10 guideline range has been determined, the Court has the
11 authority in some circumstances to depart upward or downward
12 from the guidelines; and that simply means that the Court could
13 impose a sentence that is either more severe than what is
14 called for by the guidelines or less severe than what is called
15 for by the guidelines?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you understand that, regardless of the
18 guideline range, the Court may sentence you to a term of
19 imprisonment for up to the maximum time allowed by law?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Do you also understand that, in this
22 federal court, parole has been abolished; and that, if you're
23 sentenced to prison, you will not be released on parole?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you further understand that under some

1 circumstances you or the Government may have the right to
2 appeal any sentence that I impose?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: All right. The next set of questions,
5 then, that I'm going to ask you concern your constitutional
6 rights. In particular, your waiver of those rights, meaning
7 that you will be giving them up if you plead guilty here today
8 and this Court accepts your plea.

9 Now, just like all the other questions I've asked you, I'm
10 going to ask you do you understand that such is the case. But
11 I want you to listen very carefully, because your responses in
12 particular to these questions will determine whether or not the
13 Court accepts your plea. Do you understand that you have the
14 right to maintain a plea of not guilty?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Do you understand that, under the
17 Constitution and the laws of the United States, you're entitled
18 to a speedy and public trial by a jury on the charges against
19 you?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Do you understand that at a trial you
22 would be presumed innocent of the charges, and the Government
23 would have to prove you guilty beyond a reasonable doubt before
24 you could be found guilty?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Do you understand that you would not be
2 required to prove your innocence at a trial?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Do you also understand that, at a trial,
5 the witnesses for the Government would have to come into court
6 and testify in your presence; that your attorney could
7 cross-examine the Government's witnesses; and that your
8 attorney could also call other witnesses to testify on your
9 behalf?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Do you understand that you have the right
12 at trial to compel, in other words, require, the attendance of
13 witnesses?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Do you also understand that if you wish
16 to testify yourself in your own defense at a trial you would
17 have the right to do so?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Do you understand that if you chose not
20 to testify yourself in your own defense at trial the fact that
21 you did not testify could not be used against you?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Do you understand that if you had a trial
24 and were convicted you would have the right to appeal your
25 conviction and your sentence?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Now, Mr. Jones, if you plead guilty here
3 today to Count 1 of the information and to Count 1 of the
4 fourth superseding indictment, or either one, do you understand
5 that if the Court accepts your guilty plea you're going to
6 waive your right to trial by jury and your right to all of the
7 other constitutional rights I've just discussed with you?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: So you did -- do you understand, then, if
10 the Court accepts your plea to Count 1 of the information and
11 Count 1 of the fourth superseding indictment, there's not going
12 to be a trial; and I'm going to enter a judgment of guilty
13 based upon those pleas and sentence you, after considering a
14 Presentence Report prepared by the probation officer?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Now, do you have any questions about any
17 of these constitutional rights?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: Did you specifically discuss with your
20 attorney the waiver of these constitutional rights?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Now, having discussed these rights with
23 your attorney, is it still your wish to plead guilty to the
24 information and to Count 1 of the fourth superseding
25 indictment?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Now, I have just a few more questions for
3 you before I ask you for your plea, all of which concern your
4 legal representation by your attorney. Have you had sufficient
5 opportunity to discuss your case with your attorney?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Are you satisfied with your attorney's
8 representation of you?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Do you believe that your attorney has
11 represented your best interests in this matter?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Now, do you have any questions for the
14 Court or any concerns about this proceeding thus far?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Then my first question to you, Mr. Jones,
17 is in the matter of the United States v. Derrick Jones, do you
18 plead guilty or not guilty to Count 1 of the information?

19 THE DEFENDANT: I plead guilty.

20 THE COURT: Do you plead guilty or not guilty to
21 Count 1 of the fourth superseding indictment?

22 THE DEFENDANT: I plead guilty.

23 THE COURT: It is the finding of the Court, then, in
24 the case of the United States v. Derrick Jones, that the
25 defendant is fully competent and capable of entering an

1 informed plea; that the defendant is aware of the nature of the
2 charges and the consequences of the pleas; and that the pleas
3 of guilty are a knowing and voluntary plea supported by an
4 independent basis in fact containing each of the essential
5 elements of the offense in Count 1 of the information and
6 Count 1 of the fourth superseding indictment and not the result
7 of force, threats, or promises.

8 So the Court therefore accepts your guilty pleas,
9 Mr. Jones; and you're now adjudged guilty of the offense in
10 Count 1 of the information and in Count 1 of the fourth
11 superseding indictment.

12 The Court, however, only conditionally accepts the plea
13 agreement pending the Presentence Report. Now, with respect to
14 that Presentence Report, Mr. Jones, it will be prepared by the
15 probation office to assist the Court in determining what
16 sentence may be appropriate.

17 For purposes of preparing that report, you're going to be
18 asked questions by the probation officer. While you're being
19 questioned by the probation officer, you may have your attorney
20 present if you wish. Now, with respect to those questions the
21 probation officer is going to ask you, I encourage you to be
22 honest and forthright about everything that is asked of you.

23 There may be some things that are embarrassing or that you
24 would rather not talk about, but I assure you your answers are
25 going to be contained in that Presentence Report; and that is

1 what I primarily rely upon in determining what your sentence
2 is. And I read every single word. So I encourage you to be as
3 honest as possible, as I said, even if it's something that
4 you'd rather not talk about.

5 After the Presentence Report is prepared, you will have
6 the opportunity to review it, just as your attorney will and
7 the Government's attorney. And you will also have the
8 opportunity to challenge any of the reported facts or the
9 application of the guidelines by the probation officer.

10 I am going to allow you, if you wish, to speak at your
11 sentencing hearing. Your attorney will have the opportunity to
12 speak on your behalf as well. You're not required to speak,
13 but I am always willing to listen to anything any defendant,
14 including yourself, would like to tell me that you think I
15 should consider in determining what your sentence will be.

16 Now, at this point, your sentencing date will be set for a
17 date about -- roughly 120 days from today. That looks like
18 it's going to be November 30th. That is a Thursday. Does
19 anyone have an issue with that date that you know of at this
20 point?

21 MR. DAVIS: None from the defense, Your Honor.

22 MR. MCGEE: No, Your Honor.

23 THE COURT: So sentencing will be set for
24 November 30, 2017. Now, Mr. Jones, I'm going to enter an order
25 with that sentencing date in there. There will also be some

1 other deadlines in that order. One of them is the deadline to
2 submit reference letters.

3 And I want to mention that because that is your
4 opportunity that if you know of -- whether it's family,
5 friends, a past employer, anyone that has something positive to
6 say about you that you would like the Court to consider in
7 determining your sentence, I will ask you to go ahead and make
8 sure you request a letter from those persons so that they will
9 be in, in plenty of time to meet the deadline that will be in
10 the order that I set.

11 Right now, you've got about 90 days; so you've got plenty
12 of time to ask someone. But just like the Presentence Report,
13 I read every word of those letters and take them into
14 consideration. So I just give you that option. Again, you're
15 not required to; but it is something I absolutely will consider
16 in determining what your sentence is.

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: I think I have covered everything.
19 Anything that you're aware of that I missed, Mr. Davis?

20 MR. DAVIS: None from the defense, Your Honor.

21 THE COURT: Mr. McGee?

22 MR. MCGEE: None from the Government, Your Honor.

23 THE COURT: Probation?

24 MR. MIDDLETON: None, Your Honor.

25 THE COURT: If that is the case, then this matter is

1 adjourned; and the defendant is remanded to the custody of the
2 United States Marshals.

3 (THE HEARING ENDED AT 2:45 p.m.)

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1 CERTIFICATE OF OFFICIAL REPORTER

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4 I, Rita Davis Young, Federal Official Realtime
5 Court Reporter, in and for the United States District Court for
6 the Northern District of Mississippi, do hereby certify that
7 pursuant to Section 753, Title 28, United States Code that the
8 foregoing is a true and correct transcript of the
9 stenographically reported proceedings held in the
10 above-entitled matter; and that the transcript page format is
11 in conformance with the regulations of the Judicial Conference
12 of the United States.

13

14

15 Dated this 20th day of July, 2017.

16

17

18

19 /s/ Rita Davis Young
20 RITA DAVIS YOUNG, FCRR, RPR, CSR #1626
21 Federal Official Court Reporter

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